

vertebral structures" does not raise enablement issues; and 3) claim 21 and its dependent claims does not read on spontaneous generation of bone, and therefore, the rejection under 35 U.S.C. § 112, first paragraph, will be withdrawn. On the basis of the foregoing, it is believed that this amendment places the case in condition for allowance.

Claims 8, 10-15, 17-21, 23-35, and 38-39 are pending.

Applicant has amended claim 15 to delete references to "producing" or "reproducing" vertebral structures pursuant to the agreement reached with the Examiner during the interview on October 2, 2002, to overcome the rejection based on non-enablement. Further, the addition of "recovering broken vertebral structures" does not read on spontaneous generation of bone as agreed by the Examiner. Therefore, the §112, first paragraph rejection is no longer appropriate and should be withdrawn.

Since claim 21 does not recite "producing" or "reproducing" of bone, it cannot possibly read on spontaneous generation of bone. In the interview, the Examiner agreed that the claim should not have been rejected under 35 U.S.C. §112, first paragraph. Therefore, Applicant respectfully requests the withdrawal of the rejection.

Claims 8, 10-14, 31, 34, and 38 stand rejected under the judicially created doctrine of double patenting over claims 1-8 of U.S. Pat. No. 5,932,207. A terminal disclaimer is filed concurrently herewith to overcome the rejection.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version with markings to show changes made.**"

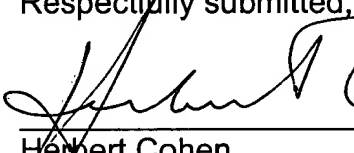
Based on the aforesaid interview and this amendment, all of the claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME COMISKY & McCAULEY LLP, Deposit Account No. 23-2185 (109572-00101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, applicant hereby petitions under 37 C.F.R.. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

Date: October 3, 2002

Respectfully submitted,  
  
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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS**

Please amend claim 15 as follows:

15. (Thrice amended) A method of [producing, reproducing or] stabilizing vertebral structures or recovering broken vertebral structures or [of] fixing endoprosthesis comprising the step of implanting a composition according to claim 8 into living beings.